Environment and Land Tribunals Ontario

Annual Report 2013-2014

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www.elto.gov.on.ca

To the Honourable Madeleine Meilleur, Attorney General

Minister:

We have the pleasure of submitting, for the approval of the Legislature, the Environment and Land Tribunals Ontario 2013-2014 Annual Report.

Respectfully submitted,

Jerry V. DeMarco
Alternate Executive Chair
Environment and Land Tribunals Ontario

Lynn Norris
Executive Lead
Environment and Land Tribunals Ontario

2014

ELTO 2013-2014 Annual Report

Table of Contents

Chair's Message - 2014 ..... **3**

About ELTO **6**

Vision 6

Mandate, Mission and Core Values 6

Overview of Tribunals 7

Governance and Accountability 8

Year in Review **8**

Business Plan Achievements 8

Professional Development 9

Changes to Legislation and Rules 10

Stakeholder Consultations 11

Performance Results 12

ELTO Financial Summary 13

Case Management **14**

ARB Caseload and Process 14

BON Caseload and Process 15

CRB Caseload and Process 16

ERT Caseload and Process 17

OMB Caseload and Process 19

Recruitment of Members **22**

Appointees **23**

Chair's Message -- 2014

On behalf of all Members and staff, I am pleased to present the 2013-2014 Environment and Land Tribunals Ontario (ELTO) Annual Report. This report covers the fiscal year ending March 31, 2014.

ELTO was the first cluster of tribunals created under the authority of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (ATAGAA). Formed in 2010, ELTO includes the Assessment Review Board (ARB), Board of Negotiation (BON), Conservation Review Board (CRB), Environmental Review Tribunal (ERT) and Ontario Municipal Board (OMB).

The purpose of ATAGAA is to ensure that adjudicative tribunals are accountable, transparent and efficient in their operations while remaining independent in their decision-making. A key feature of ATAGAA is ensuring public access to governance and accountability documents. ELTO's public accountability documents include the Mandate and Mission Statement, Consultation Policy, Service Standard Policy, Ethics Plan, and Member Accountability Framework, which includes position descriptions and a Code of Conduct. These documents can be viewed on ELTO's website at www.elto.gov.on.ca. ELTO's governance documents, which include the Business Plan, Annual Report and Memorandum of Understanding, are also posted on the website.

At ELTO, the 2013-2014 fiscal year was a year of transition and renewal. ELTO made succession plans for key leadership positions, while remaining focused on effectively fulfilling the cluster mandate and the legislated mandates of the five tribunals. ELTO sought to enhance the confidence and trust of the public, government and parties to cases. This included a focus on priorities to support:

- the core business of resolving disputes;
- government initiatives for agencies, boards and commissions; and
- internal initiatives to better promote accountability and efficiency

During 2013-2014, several case and hearing management strategies were developed or completed to improve the timely and fair resolution of cases across ELTO, including a review of the rules and practice directions for Renewable Energy Approval appeals before the ERT, a new practice direction for Growth Plan hearings before the OMB, an information sheet for lengthy OMB hearings, and the creation of an ELTO-wide roster of cross-appointed Members who are available to conduct mediations in response to demands at any tribunal in the cluster.

The ARB Streaming Strategy, which was previously developed in consultation with staff, Members and stakeholders, continued to make excellent progress. The strategy was designed to address the outstanding backlog of cases from previous assessment cycles and improve the ARB's ability to resolve new cases within the current 2013-2016 cycle.

As of March 31, 2014, the ARB received 45,000 new appeals for the 2012 current value assessment on the 2013 and 2014 taxation years. The total number of outstanding appeals was 62,000 on 32,000 properties. The ARB continues to see progress on the resolution of the backlog of appeals as the pre-2012 assessment cycle appeals now total 23,000 (a reduction of 70 per cent of the backlog of appeals).

ELTO provided input into a number of government initiatives affecting the operation of its independent tribunals, including the Ministry of Finance's Special Purpose Business Property Assessment Review and the Ministry of Municipal Affairs and Housing's review of the land use planning system. In addition, the leadership of the tribunals that report through the Ministry of the Attorney General came together to identify common goals for future planning of programs, facilities and technology in order to improve service and implement innovative solutions to the challenges facing adjudicative tribunals across Ontario.

In the fall of 2013, ELTO consulted throughout the organization to develop a vision statement, strategic directions and initiatives that reflect the organization's focus for the future. This important exercise supported the development of the 2014-2017 Business Plan, which has been submitted to the Attorney General and will be published once it has been approved. The Vision Statement and the Business Plan emphasize the core public service role that ELTO plays. These documents will ensure that the organization is client-focused and committed to excellence in resolving environment and land disputes for all Ontarians.

In 2013-2014, ELTO convened its external Advisory Committee on a quarterly basis to receive feedback on access to justice, with a particular focus on remote, rural and northern communities. The Committee also reviewed a number of ELTO initiatives, including a review of information available on ELTO's website, draft practice directions, proposed rule changes and alternate hearing formats.

ELTO continued to implement initiatives that create a more resilient organization that can respond in an effective and timely way to client needs. To this end, ELTO held a number of position competitions throughout the year to fill vacancies at the leadership and Member levels. ELTO identified many highly qualified candidates based on the qualification criteria of substantive area knowledge and aptitude for impartial adjudication and alternative dispute resolution. ELTO trained newly appointed Members to help fill the roles of recently retired Members.

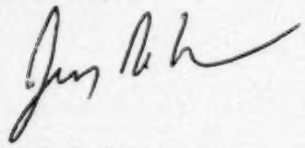
ELTO also continued to provide an expanded professional development program that is developed through consultation with Members. The program ensures that Members continue to develop the skills and knowledge required in their positions. ELTO used electronic and in-person programs, covering a range of substantive and procedural issues. Tribunal specific training was also conducted to enhance substantive area expertise in each tribunal, and where applicable, specialized training offered by third parties was used to supplement ELTO training, particularly in the orientation of new Members.

As Alternate Executive Chair of ELTO, I would like to take this opportunity to thank everyone who has provided input on how services could be improved at ELTO. The input of those who are served by ELTO is a valuable source of information as ELTO continues to grow as a public service organization. ELTO is committed to being a learning organization that looks to share and develop best practices across tribunals.

I wish to thank all Members and staff who contributed to ELTO's important public service work over the past year. I would also like to acknowledge the important contributions of those Members and staff who have recently left ELTO, including former ELTO Executive Chair Lynda Tanaka and ARB Associate Chair Richard Stephenson, whose terms ended shortly after the end of the past fiscal year. I am grateful for their work on behalf of the people of Ontario.

I look forward to the 2014-2015 fiscal year as ELTO seeks to continuously improve its services and strives to be a leading example of an effective and efficient client-focused organization.

Sincerely,



Jerry V. DeMarco
Alternate Executive Chair
Environment and Land Tribunals Ontario

About ELTO

Vision

We are client-focused and committed to excellence in the resolution of environment and land disputes for all Ontarians.

Mandate, Mission and Core Values

Mandate
ELTO is a group of five tribunals that resolve appeals, applications and other disputes, under some 100 statutes, in relation to land use planning, environmental and heritage protection, property assessment, land valuation and other matters.

Mission
ELTO and its constituent tribunals will strive for excellence and demonstrate the highest standards of public service in:

- Delivering modern, fair, accessible, effective and timely dispute resolution services.
- Demonstrating consistency in procedures and outcomes while remaining responsive to differing cases and party needs, and to an evolving development of the law.
- Responding to the needs of diverse stakeholder communities.
- Resolving disputes, within the applicable legislative framework to support strong, healthy communities and achieve outcomes that are in the public interest.

Core Values
Core values are the guiding principles of ELTO and the foundation on which its constituent tribunals fulfill their mandates.

Accessibility

- Publications, communications and facilities, including hearing and mediation rooms, will provide for full and equitable access.
- Diversity will be fully respected and reflected in all that ELTO does.
- Processes will be designed in a way that facilitates informed participation.
- Proceedings will be conducted in a manner that is welcoming and respectful.
- Practices and procedures will provide for a meaningful, effective opportunity to be heard on the relevant issues to be resolved in a particular case.

Fairness

- Proceedings will be conducted impartially. Decisions will be principled and based on the facts, the applicable law and policy, and on the merits of the case.

Transparency

- Tribunal procedures, rules, policies and decisions will be clear and readily available to the public. Reasons for decisions will be concise and will explain how the decision was reached.

Timeliness

- Proceedings will be conducted in a timely and expeditious manner and will be proportional to the issues that must be determined to resolve the dispute.
- Decisions will be issued as soon as possible after a proceeding.

Integrity, Professionalism and Independence

- Members and staff will act with honesty, integrity and professionalism, exhibiting the highest standards of public service.
- Members and staff will work together to build public confidence in ELTO, its constituent tribunals and the administration of justice.
- ELTO and its constituent tribunals must be, and be seen to be, neutral, unbiased and independent from improper influence.

Overview of Tribunals

ELTO brings together five Ontario tribunals and boards that adjudicate and provide dispute resolution services related to land use planning, environmental and heritage protection, property assessment, land valuation and other matters.

The **Assessment Review Board** hears property assessment appeals to ensure that properties are assessed and classified in accordance with the provisions of the *Assessment Act*. The Board also hears appeals on property tax matters under other legislation.

The **Board of Negotiation** provides voluntary mediation services to parties involved in disputes over the value of land expropriated by a public authority.

The **Conservation Review Board** hears disputes over properties that may demonstrate cultural heritage value or interest and disputes regarding archaeological licensing. The Review Board makes recommendations to the final provincial or municipal decision-making authority in the particular case.

The **Environmental Review Tribunal** hears applications and appeals under numerous environmental and planning statutes. The Tribunal also functions as the Niagara Escarpment Hearing Office to hear development permit appeals and plan amendment applications for this protected World Biosphere Reserve, and serves as the Office of Consolidated Hearings to hear applications for joint hearings where separate hearings before more than one tribunal would otherwise be required.

The **Ontario Municipal Board** hears applications and appeals in relation to a range of municipal planning, financial and land matters including official plans, zoning by-laws,

subdivision plans, consents and minor variances, land compensation, development charges, electoral ward boundaries, municipal finance, aggregate resources and other issues.

ELTO was created under the authority of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (ATAGAA). This act permits the government to designate two or more adjudicative tribunals as a cluster if, in the opinion of the Lieutenant Governor in Council, the matters that the tribunals deal with are such that they can operate more effectively and efficiently as part of a cluster than alone.

Governance and Accountability

ATAGAA and related regulations have further strengthened and made transparent the accountability framework for adjudicative tribunals through provisions with respect to:

- Requirements for public accountability documents, including mandate and mission statements, consultation policies, service standard policies, ethics plans and Member accountability frameworks (such as job descriptions, necessary skills and qualifications, and codes of conduct).
- Requirements for governance accountability documents, including memoranda of understanding, business plans, and annual reports.
- Requirements for appointments and the need for the selection process to be competitive and merit-based.
- The designation of clusters of two or more adjudicative tribunals to improve the effectiveness and efficiency of tribunals.

ELTO worked with the Ministry of the Attorney General's Justice Audit Services (JAS) team in 2013-2014 on a two-phased internal audit of its operations. The final report for Phase One was received in the fall of 2013 and focused on the ARB and BON. Implementation of the report's recommendations is underway. The Phase Two report for the CRB, ERT and OMB is expected by the summer of 2014.

Year in Review

Business Plan Achievements

Throughout 2013-2014, ELTO made considerable progress in achieving a number of key priorities and strategies, including:

1. Core Business Initiatives – Resolving Appeals, Applications and Disputes

Improvements were made to case and hearing management strategies throughout the cluster, including a review of several rules and practice directions. Implementation of the ARB Streaming Strategy has led to a 70 per cent reduction in older assessment appeal cases and a 65 per cent reduction in outstanding tax appeals. Members are effectively resolving matters quickly and efficiently through mediation strategies introduced in the

ELTO-wide Alternative Dispute Resolution (ADR) initiative. To support this initiative, ELTO's roster of Members trained in ADR has been strengthened with the cross-appointment of eight Members skilled in mediation techniques.

2. Government Initiatives for Agencies, Boards and Commissions

Working in collaboration with the Ministry of the Attorney General and policy ministries across government, ELTO participated in a number of government initiatives in 2013-2014 that impact the tribunals' operations. These initiatives included the Ministry of Finance's Special Purpose Business Property Assessment Review and the Ministry of Municipal Affairs and Housing's land use planning and development charges review. Leaders from the Ministry of the Attorney General's clusters and tribunals met to identify common goals for future planning of programs, facilities and technology. In consultation with stakeholders, ELTO developed a multi-year accessibility plan, one of the key components of its Diversity, Inclusion and Accessibility Plan. A number of initiatives were implemented to promote resiliency and mental health awareness in the workplace through learning and development events.

3. Internal Reform – Accountability and Efficiency

Over the past year, several improvements to the cluster's operations were made to enhance accountability and improve the use of resources. The ELTO Advisory Committee provided feedback on the information available on ELTO's website, draft practice directions, proposed rule changes and alternate hearing formats. The internal audit of ELTO operations conducted by JAS continued, with implementation of recommendations from Phase One of the audit and completion of field work for Phase Two. Upgrades were made to technology, including improvements to the telephone voice menu system and server infrastructure. To increase transparency and accountability, ELTO now publishes quarterly caseload statistics on its website for ARB, ERT and OMB and provides information on Requests for Review. Improvements were also made to rationalize library resources, including providing access to materials online to assist Members and staff.

In the fall of 2013, following consultations with staff, Members and the ELTO Advisory Committee, ELTO developed the following vision statement:

- We are client-focused and committed to excellence in the resolution of environment and land disputes for all Ontarians.

In addition, three strategic directions were identified for the 2014-2016 Business Plan:

- Providing client options that lead to timely and appropriate resolutions
- Transforming through technology
- Building a dynamic, effective workplace

Professional Development

ELTO develops an annual Professional Development program to build tribunal expertise and enhance adjudicative excellence through training and development. The training program is designed to achieve the following objectives:

- Coordinate training initiatives and provide support and learning.
- Enhance member professional development, tribunal expertise, capacity, consistency and service to the public.
- Foster a common culture of excellence, neutrality, integrity and professionalism, and a common approach to the work of ELTO more generally, as well as development of best practices.
- Ensure the efficient and cost effective use of professional development resources.
- Provide training to prepare Members to seek cross-appointments, as appropriate.

In 2013-2014, Members attended semi-annual training sessions organized by ELTO's Education Committee in June and December of 2013 and quarterly sessions organized by the individual tribunal education committees. The ELTO sessions covered a wide range of topics, including several matters addressed in ELTO's governance and accountability documents. The tribunal specific sessions covered topics relating to law and policy, hearing procedure, mediation and other matters of specific relevance to one or more tribunal.

In addition, Members and staff attended a number of external learning events, including sessions offered by the Society of Ontario Adjudicators and Regulators and the Council of Canadian Administrative Tribunals.

Changes to Legislation and Rules

ARB

During this fiscal year, the Province made changes to the General Regulation under the *Assessment Act*. Among the more significant changes that will affect the work of the ARB are provisions related to the phase-in of assessment increases, non-profit hospices and third-party signs (billboards).

As part of the 2013 Streaming Strategy, the ARB introduced revisions to its rules to help ensure that hearing procedures are proportional to the issues raised in an appeal. As these rule changes were implemented, the ARB continued to consult with stakeholders, staff and Members to monitor the impact of the changes. Related administrative processes and communications have also been updated in an effort to increase accessibility and transparency. These have included updates and plain-language revisions to forms, information sheets and website information.

The ARB also continues to consult with the stakeholder community regarding enhancements to its mediation rules and practices. Providing high-quality, early

mediation is a priority for the ARB, and it is hoped that increased use of mediation will result in earlier case resolutions.

CRB
As part of ELTO's initiatives to provide access to alternative dispute resolution mechanisms, the CRB examined its pre-hearing conference processes with a view towards enhancing opportunities for parties to reach a settlement. The CRB will consult with stakeholders in the coming fiscal year on proposed rule changes in this area.

ERT
The ERT struck an external stakeholders committee to provide advice on potential rule changes regarding Renewable Energy Approval appeals. The work is ongoing and is expected to result in proposed rule changes in the coming fiscal year.

OMB
The OMB amended its Rules to include Rule 21.01 and the acknowledgement of the expert's duty form. This Rule change incorporated the longstanding practice of the Board and other ELTO tribunals to require every expert engaged by a party to the proceeding to acknowledge that they have a duty to provide opinion evidence to the Board that is objective and non-partisan, and that duty prevails over any obligation owed by the expert to the party by whom they are engaged.

In addition to this rule change, the Board enacted a Practice Direction on Growth Plan hearings to contribute to more efficient hearings.

Stakeholder Consultations

The ELTO Advisory Committee (EAC), established in the fall of 2012, meets quarterly to provide feedback on and review a number of ELTO initiatives. In 2013-2014, these initiatives included:

- A review of ELTO's website information to improve access particularly for self-represented parties and participants.
- Feedback on the proposed ELTO Assessment Criteria for Provision of Mediation Services and the ARB information sheet on mediation.
- Feedback on the OMB's Practice Direction on Growth Plan hearings.

The annual ARB stakeholder meeting took place in January 2014. The main topic of discussion was the use of mediation at the ARB. A number of tools were discussed including the Information Sheet "What you need to know about Mediation at the Assessment Review Board" and proposed Mediation Rules.

As noted above, a committee was established to conduct a review of the ERT's Rules of Practice with respect to Renewable Energy Approval appeals and to propose revisions for improving the process for managing these appeals.

Performance Results

ELTO has established a performance target to release decisions within 60 days of the end of a hearing event in 85 per cent of all cases. Over the past three years, ELTO has exceeded this performance target by at least five per cent and is continuously looking at ways to further improve these results.

ELTO Decisions Performance Measure 2011-2012 to 2013-2014

Performance Measure	2011-2012 Achieved	2012-2013 Achieved	2013-2014 Achieved
Per cent of cases in which ELTO tribunals issued a decision within 60 days	91%	92%	90%

ARB Performance Measures 2011-2012 to 2013-2014

Performance Measure	2011-2012 Achieved	2012-2013 Achieved	2013-2014 Achieved
Per cent of decisions issued within 60 days	91%	93%	91%
Per cent of residential appeals resolved within one year of filing	97%	97%	100%

ERT Performance Measure 2011-2012 to 2013-2014

Performance Measure	2011-2012 Achieved	2012-2013 Achieved	2013-2014 Achieved
Per cent of decisions without legislated requirements, excluding decisions under the *Consolidated Hearings Act*, issued within 60 days of the hearing or filing of final written submissions	73%	73%	77%

*Note: Several complex matters with legislated deadlines during the fiscal year and delays in appointments of new Members negatively affected the ERT's ability to reach its 85 per cent target in other cases. The ERT is seeking new resources to help address the recent increase in complex matters.

OMB Performance Measures 2011-2012 to 2013-2014

Performance Measure	2011-2012 Achieved	2012-2013 Achieved	2013-2014 Achieved
Per cent of stand-alone minor variance appeals that had a first hearing event within 120 days of filing	73%	83%	71%
Per cent of all types of applications and appeals that had a first hearing event within 180 days of filing the last application that formed part of the case	81%	83%	80%
Per cent of decisions issued within 60 days	83%	82%	86%

*Note: Due to unforeseen circumstances, the OMB had only 16 available Members in the months of October, November and December 2013. This fact, along with other factors, necessitated the rescheduling of some hearings and contributed to delays in the scheduling of first hearing events.

ELTO Financial Summary

ELTO Expenditures 2011-2012 to 2013-2014

ACCOUNT ITEMS	2011-2012 ($)	2012-2013 ($)	2013-2014 ($)
Salary and Wages	12,181,381	12,325,830	12,270,772
*Employee Benefits	1,490,524	1,620,511	1,584,319
Transportation and Communications	1,017,816	1,075,097	1,017,607
Services	2,854,779	3,074,358	2,725,528
Supplies & Equipment	229,702	182,543	217,071
TOTAL	17,774,202	18,278,339	17,815,297

Fees Collected

The chart below shows the combined revenues for ELTO, including filing fees collected by the ARB and OMB. The fees collected are remitted to the Ministry of Finance.

ELTO Revenues 2011-2012 to 2013-2014

FISCAL YEAR	FEES COLLECTED ($)
2011-2012	770,801
2012-2013	1,619,606
2013-2014	3,928,406

Case Management

ARB Caseload and Process

ARB Caseload

At the beginning of the 2013-2014 fiscal year, the ARB had a total inventory of 80,000 appeals. During this fiscal year, the start of a new four-year assessment cycle, the ARB received approximately 45,000 new appeals. By the end of the fiscal year, over 62,000 appeals were resolved. More than 52,000 resolutions were on appeals filed before 2013. The bulk of the outstanding caseload at the end of the fiscal year consisted of appeals filed for the current four-year cycle.

ARB Caseload 2011-2012 to 2013-2014

Fiscal Year		2011-2012	2012-2013	2013-2014
Opening Caseload Balance		90,000	90,000	80,000
Caseload Received*	+	43,000	48,000	45,000
Total Caseload for Year	=	133,000	138,000	125,000
Resolved Caseload	-	43,000	58,000	63,000
Balance at the End of the Fiscal Period	=	90,000	80,000	62,000

Note: The deadline for assessment appeals to the ARB was March 31, 2014 or 90 days from the date of MPAC's request for reconsideration decision.

*Caseload received includes all types of appeals dealt with by the ARB, including annual assessment appeals, supplementary and omitted assessment appeals, *Municipal Act* appeals and *City of Toronto Act* appeals.

ARB Process

The provincial government, through the Ministry of Finance, sets the laws and regulations regarding property assessment. Municipalities are responsible for setting tax rates and collecting property taxes. The Municipal Property Assessment Corporation (MPAC) assesses and classifies all properties in Ontario. If there is a dispute between a property owner and MPAC, the property owner can file an appeal with the ARB.

Many appeals concerning complex, non-residential properties require extensive hearing time and may be presided over by a panel of Members. These appeals may be directed into pre-hearings.

During the pre-hearing process, the ARB works with the parties to establish a schedule for proceeding and may issue procedural orders to direct exchanges of information and pre-filings. Pre-hearings have the potential to expedite the hearing process and allow parties to reach a settlement before a hearing begins.

Hearings give an appellant the chance to explain why they think the property assessment from MPAC is wrong. Pre-hearings are sometimes held by teleconference. Teleconferencing is a practical way to provide status updates and determine next steps toward issuing procedural or consent orders, resolving contentious matters and, in some instances, settling appeals. This technique saves time and money by reducing travel for all parties involved in Board hearings.

During a hearing, the parties present evidence and question each other on that evidence. At the end of the hearing, the Member who is overseeing the hearing makes a decision or may reserve the decision for a later date.

BON Caseload and Process

BON Caseload

The number of files received and meetings held in 2013-2014 marked a three year high for the BON. There was also an increase in the complexity of expropriation issues in the past fiscal year. The BON's caseload is summarized in the following table.

BON Caseload 2011-2012 to 2013-2014

Year	2011-2012	2012-2013	2013-2014
Files Received	74	51	81
Meetings Held	38	39	57
Open Files (as of March 31)	45	54	50

BON Negotiation Results 2011-2012 to 2013-2014

Year	2011-2012	2012-2013	2013-2014
Board Resolved	27	29	38
Parties Resolved	10	12	14
To OMB	4	3	25
Administrative Close	0	0	10
Total	41	44	87

*Note: The increase in the number of cases that went to the OMB in 2013-2014 was the result of a class of related complex cases.

BON Process

The BON provides mediation services to parties involved in disputes over the value of expropriated land – the landowner on the one hand, and the expropriating authority on the other (typically the Crown or a municipality). There is no cost to the party to apply to or have a matter proceed before the BON.

The BON views the expropriated property, reviews all written documentation and considers the submissions from the parties. Through mediation, the BON tries to help parties reach a resolution. While it has no power to impose a settlement, the BON will, where sufficient information has been submitted, provide a recommendation to the

parties on what would be fair compensation. Using its expert mediators, the BON continues to fulfill its mandate in a timely manner while experiencing an increase in the number and complexity of cases.

BON mediation is confidential. If a settlement cannot be reached at the BON, the parties may take the matter to the OMB. However, because of the confidentiality of the mediation process, the BON and OMB employ strict measures to ensure that any information received by the BON is not provided to the OMB. OMB Members and staff do not have access to any information or discussions that were part of the BON process.

CRB Caseload and Process

CRB Caseload

During the 2013-2014 fiscal year, the CRB received 11 cases. The majority of cases continue to be objections to the proposed designation of a property under section 29 of the *Ontario Heritage Act*. While the CRB pre-hearing activity remained at a similar level to the previous fiscal year, there were fewer hearings held this fiscal year.

CRB Caseload 2011-2012 to 2013-2014

Fiscal Year	2011-2012	2012-2013	2013-2014
Cases Received	8	12	11
Pre-hearing Conferences	10	25	24
Hearings Held	1	5	2
Reports Issued	1	3	3
Withdrawals	5	7	6
Open Cases (as of March 31)	11	12	14

CRB Process

All cases before the CRB go through a pre-hearing process. The pre-hearing conference (PHC) provides an opportunity for all parties to discuss the issues with each other and with the CRB. The two fundamental objectives in conducting the PHC are to facilitate a possible settlement of the dispute and to prepare all parties for the formal hearing process if a settlement does not occur.

If a full settlement is reached at the PHC, each objector and the property owner (if applicable) must submit a letter of Withdrawal of Objection to the CRB, or the municipality must submit a letter of Withdrawal of the Notice of Intention to Designate and the case is closed. If a settlement is not reached, the PHC proceeds to the phase of preparing all parties for the formal hearing.

After the hearing, the CRB issues a report to the municipal council, or the Minister of Tourism, Culture and Sport, whichever has jurisdiction over the matter, making recommendations based on the evidence presented and arguments made at the hearing. The CRB attempts to release the report within 30 days of the end of the hearing. Once the CRB releases its report, the file is closed. The municipal council or the Minister makes the final decision on the matter, and will consider the report of the CRB as part of the decision making process.

ERT Caseload and Process

ERT Caseload

In the 2013-2014 fiscal year, the ERT received 76 cases representing 144 appeals/applications and requests for hearing. The ERT's caseload intake remained at a comparable level to 2012-2013; however, the profile of the cases shifted significantly. The ERT received double the number of more complex cases related to Renewable Energy Approvals while the number of typically less complex appeals of Niagara Escarpment Commission decisions on development permits dropped by approximately 40 per cent. The ERT has administrative responsibility for the *Consolidated Hearings Act*, which is conducted under the designation of the Office of Consolidated Hearings. During 2013-2014, the Office received one new request for a consolidated hearing. The ERT resolved 72 cases during the fiscal year. The table below provides a breakdown of intake by legislation.

ERT Caseload 2011-2012 to 2013-2014

Case Type	2011-2012		2012-2013		2013-2014	
	No. of Cases	No. of Appeals	No. of Cases	No. of Appeals	No. of Cases	No. of Appeals
Environmental Bill of Rights, 1993	5	12	7	16	6	9
Environmental Protection Act	24	77	15	31	15	34
Environmental Protection Act - Renewable Energy Approval Appeals	5	7	11	47	22	47
Nutrient Management Act, 2002	0	0	3	5	2	2
Ontario Water Resources Act	6	8	2	2	3	3
Pesticides Act	0	0	0	0	2	2
Safe Drinking Water Act, 2002	1	1	4	4	2	2

Case Type	2011-2012		2012-2013		2013-2014	
	No. of Cases	No. of Appeals	No. of Cases	No. of Appeals	No. of Cases	No. of Appeals
Niagara Escarpment Planning and Development Act *Development Permit Appeals*	44	146	38	69	23	41
Niagara Escarpment Planning and Development Act *Plan Amendment*	1	1	0	0	0	0
Consolidated Hearings Act	0	0	1	2	1	4
TOTAL	**86**	**252**	**81**	**176**	**76**	**144**

The ERT conducts its proceedings in person, by teleconference and in writing. In 2013-2014, there was a substantial increase in hearing events over the previous fiscal year. The increase is mainly attributable to the hearing activity for cases related to Renewable Energy Approval appeals. The breakdown for types of events for the last two fiscal years is noted below.

ERT Types of Events 2012-2013 to 2013-2014

Fiscal Year	2012-2013	2013-2014
Type of event	**Days where an event was scheduled**	
Hearing	89	188
Mediation	24	30
Motion	20	34
Pre-hearing Conference	61	30
Preliminary Hearing	51	133
Teleconference	78	29
	No. of Events	**No. of Events**
Written	8	17
Stay	7	11

*Pre-hearing conferences are generally held by teleconference.

ERT Process
The ERT holds pre-hearing conferences or preliminary hearings on most matters. In the case of appeals related to development permits under the *Niagara Escarpment Planning and Development Act*, pre-hearing conferences provide an opportunity to clarify, refine or settle the issues. For other matters, a preliminary hearing normally assists in facilitating preparation for the hearing. The presiding Member typically issues a written order after a preliminary hearing noting what was decided and any directions given by the Member.

The ERT Members are responsible for conducting pre-hearings and hearings and for issuing written decisions and orders. The processing of appeals/applications, which is performed by staff, includes all administrative steps necessary to schedule and resolve an appeal/application from the date of filing to the closing of the file. The ERT offers mediation to parties who wish to attempt to settle all or some of the issues raised in a dispute. Mediation often eliminates the need for a hearing or reduces the number of scheduled hearing days.

OMB Caseload and Process

OMB Caseload
Minor variance matters represent the highest percentage of new files at 34 per cent of the files received during the fiscal year. They are followed by consents and zoning by-laws enacted by a municipality, both at 13 per cent and requests for amendments to a zoning by-law that were either refused by a municipality or no action was taken at 11 per cent of new files. Each remaining file type represented less than 10 per cent of the OMB's file intake during the fiscal year. The City of Toronto Comprehensive Zoning By-law with over 275 appeals was the main contributing factor to the increased number of appeals over the previous year.

The OMB scheduled 1,942 hearing events in 2013-2014, a slight decrease from the previous year. Of the 1,942 hearing events scheduled, 1,282 were held; an increase from the previous year.

OMB File Types Received (Appeals and Applications) 2011-2012 to 2013-2014

Fiscal Year	2011- 2012		2012-2013		2013-2014	
File Types Received (Appeals and Applications)	No. of Files	No. of Appeals	No. of Files	No. of Appeals	No. of Files	No. of Appeals
Minor Variances	581	607	562	581	513	532
Consents	305	321	222	231	200	209
Zoning By-laws	159	285	156	250	192	602
Official Plans and Official Plan Amendments	120	382	136	256	158	315
Zoning Refusal or Inaction	125	125	146	146	167	166
Plans of Subdivision/ Condominium	68	76	59	62	68	73
Municipal and Miscellaneous (incl. site plans)	115	117	87	87	136	114
Development Charges	18	48	17	27	28	44
Land Compensation	31	31	55	55	54	54
Municipal Finance	5	5	8	9	8	7
TOTAL	1,527	1,997	1,449	1,705	1,524	2,116

The majority of OMB hearing events lasted one day or less, representing 88 per cent of hearing events and 53 per cent of hearing days held in the fiscal year. However, the percentage of hearing days devoted to matters requiring more than 20 hearing days increased significantly from 6% to 12% in this fiscal year. The most challenging and complex appeals dealt with by the OMB over the past fiscal year fall within four general subject areas: official plan appeals of Growth Plan conformity amendments, appeals of municipal approvals related to financial matters, land compensation matters and site specific land use appeals that have a great impact on communities. The following chart provides a breakdown of the duration of hearing events, as well as the percentage of total hearing days for the OMB.

Duration of OMB Hearing Events 2012-2013 to 2013-2014

Duration	2012-2013 Percentage of Total Hearing Events	2012-2013 Percentage of Total Hearing Days	2013-2014 Percentage of Total Hearing Events	2013-2014 Percentage of Total Hearing Days
One Day or less	85%	54%	88%	53%
One to Three Days	10%	16%	7%	10%
Four to Five Days	2%	7%	2%	7%
Six to 10 Days	1.5%	7%	2%	9%
11 to 20 Days	1%	10%	1%	9%
More than 20 Days	>1%	6%	>1%	12%

OMB Process

Most disputes are brought to the OMB by filing an appeal. Depending on the type of dispute, there are different processes and timelines for filing an appeal. The OMB reviews the appeal and decides with input from the parties, to stream the case into mediation, motion, pre-hearing or hearing. Most appeals are resolved by a full hearing.

The OMB continues to use the pre-hearing process for a Member to manage complex, multi-party appeals of related municipal land use approvals. Case management techniques used by OMB Members include: identifying and prioritizing threshold issues, refining, scoping or phasing broad appeals, providing detailed procedural instructions or hearing work plans to the parties, and providing ongoing direction on any procedural disputes. As a result, hearing events have been refined, focused and made more efficient to deal with discrete issues that are critical to the resolution of the appeals.

The OMB holds hearings across the province, most often in the municipality where the property is located. The OMB holds hearing events by teleconference when it is appropriate, often for events such as pre-hearings and settlement hearings. The use of teleconferences allows the OMB to respond quickly and is time and cost efficient for the parties. In 2013-2014, teleconferences represented 19 per cent of hearing events held.

The OMB continued to make progress in the field of mediation. The mediation program has evolved to a nimble system that is interest-based, facilitative in approach and based on the evidence relevant to each case. In the past fiscal year, the OMB achieved significant successes in mediations ranging from controversial site specific land use disputes to complex land compensation matters. The OMB will continue to respond to the growing demand for mediation and adapt to the evolving needs of parties that wish

to pursue mediation that is tailored to the specific circumstances and that provides a lasting resolution to a given dispute.

Recruitment of Members

ATAGAA requires the selection process for the appointment of Members to be competitive and merit-based. ELTO held a number of competitions in 2013-2014 to fill vacancies: a part-time ARB Member competition commenced in January 2013 with four Members subsequently appointed; a full-time ARB Associate Chair competition commenced in June 2013 with an Associate Chair subsequently appointed; a full-time ERT/OMB Member competition commenced in August 2013 with recommendations made to the Minister; part-time OMB, ERT and CRB Member competitions commenced in January 2014 with recommendations made to the Minister. ELTO continues to attract a high number of candidates with the relevant background, training and skills to fill Member positions.

Appointees

Environment and Land Tribunals Ontario appointees as at March 31, 2014

ELTO	Original Appointment Date	Appointment End Date
Executive Chair		
Tanaka, Lynda C.E	May 16, 2011	May 15, 2014
Alternate Executive Chair		
DeMarco, Jerry V.	September 1, 2010	August 31, 2015
Assessment Review Board	**Original Appointment Date**	**Appointment End Date**
Executive Chair		
Tanaka, Lynda C.E	May 16, 2011	May 15, 2014
Alternate Executive Chair		
DeMarco, Jerry V.	September 1, 2010	August 31, 2015
Associate Chair		
Stephenson, Richard F.	April 7, 1993	May 31, 2014
Full-Time Vice-Chairs		
Andrews, Peter	November 14, 2012	November 13, 2014
Bourassa, Marcelle	April 11, 2006	February 20, 2017
Butterworth, Robert	November 19, 1997	April 14, 2014
Part-Time Vice-Chairs		
Mather, Susan	March 10, 2013	March 9, 2015
##Schiller, Susan	November 6, 2013	November 5, 2015
^^Stefanko, Steven	November 6, 2013	November 5, 2015
%VanderBent, Dirk	November 6, 2013	November 5, 2015
Full-Time Members		
Cowan, Bernard A.	December 19, 1997	September 3, 2017
Walker, Janet Lea	September 4, 2007	September 3, 2017
Whitehurst, Donald	May 18, 2005	September 3, 2017
Wyger, Joseph M.	May 27, 1998	September 3, 2017
Part-Time Members		
*Birnie, Ian	May 6, 1999	May 5, 2013
*Castel, André	November 19, 1997	March 9, 2014
Denison, William T.	November 14, 2012	November 13, 2014
Driesel, Sandra	March 16, 2000	April 23, 2014
Duan, Yucheng Josie	September 29, 2010	September 28, 2015
Fenus, Andrew	May 30, 2007	May 29, 2017
Flemming, Leslie	October 2, 2013	October 1, 2015
Griffith, Jennifer	September 17, 2004	September 16, 2014
Kowarsky, Barbara	May 18, 2005	May 17, 2016
Laflamme, Jacques	August 25, 2004	August 24, 2014
LaRegina, Anthony	January 15, 2007	January 14, 2017

Laws, Joanne	February 10, 2006	February 9, 2014
Levasseur, Romeo	May 18, 2005	May 17, 2015
Light, Sonia	August 7, 2013	August 6, 2015
Limoges, Rick	January 15, 2007	January 14, 2017
^^Makuch, Richard	November 6, 2013	November 5, 2015
Marques, Ana Cristina	May 18, 2005	May 17, 2016
McAnsh, Scott	August 7, 2013	August 6, 2015
Minnie, Garry	March 1, 2006	February 28, 2014
Morris, Warren	October 31, 2012	October 30, 2014
Nalezinski, Les	March 1, 2006	February 29, 2016
+++Neron, Robert	August 28, 2013	August 27, 2015
Oliveira, Evangelista (Ivan)	May 17, 1999	May 16, 2013
Plumstead, Nicoll	May 18, 2005	May 17, 2016
Roberts, Catherine E.	September 29, 2010	September 28, 2015
Saponara, Fausto	May 18, 2005	May 17, 2016
Sharma, Marilyn	January 15, 2007	January 14, 2017
Skanes, Tyrone	September 29, 2010	September 28, 2015
Sloan, Charlotte	September 29, 2010	September 28, 2015
Stabile, Vincent	September 29, 2010	September 28, 2015
+++Steinberg, Robert	November 14, 2012	November 13, 2014
Tchegus, Robert	February 10, 2006	February 9, 2014
*Tersigni, Joe	May 30, 2001	June 8, 2013
Walker, Tanya	September 29, 2010	September 28, 2015
Weagant, Dan	September 29, 2010	September 28, 2015

Board of Negotiation	**Original Appointment date**	**Appointment End date**
Executive Chair		
Tanaka, Lynda C.E.	May 16, 2011	May 15, 2014
Alternate Executive Chair		
DeMarco, Jerry V.	September 1, 2010	August 31, 2015
Part-Time Members		
Egan, Terry	June 17, 2009	June 16, 2014
+++Marques, Ana Cristina	November 6, 2013	November 5, 2015
+++Neron, Robert	August 28, 2013	August 27, 2015
*Rusin, Peter	May 4, 2011	May 3, 2013
Simmons, Lawrence John	March 23, 2005	March 22, 2015
+++Steinberg, Robert	May 4, 2011	May 3, 2016
Taylor, Ian	June 20, 2007	June 19, 2017
Yuen, Jane	December 19, 2008	December 18, 2018

Conservation Review Board	**Original Appointment date**	**Appointment End date**
Executive Chair		
Tanaka, Lynda C.E.	May 16, 2011	May 15, 2014

Alternate Executive Chair		
DeMarco, Jerry V.	September 1, 2010	August 31, 2015
Part-Time Associate Chair		
DeMarco, Jerry V.	May 8, 2013	August 31, 2015
Part-Time Vice-Chair		
Murdoch, Su	February 16, 2005	May 8, 2017
^^^Wright, Robert	May 29, 2013	May 28, 2015
Part-Time Members		
++++Denhez, Marc	April 18, 2012	April 17, 2017
Henderson, Stuart	June 28, 2006	June 27, 2014
*Kidd, Stuart W.	February 3, 2006	September 18, 2013
###Levy, Alan	November 6, 2013	November 5, 2015

Environmental Review Tribunal	**Original Appointment date**	**Appointment End date**
Executive Chair		
Tanaka, Lynda C.E.	May 16, 2011	May 15, 2014
Alternate Executive Chair		
DeMarco, Jerry V.	September 1, 2010	August 31, 2015
Associate Chair		
DeMarco, Jerry V.	September 1, 2010	August 31, 2015
Full-Time Vice-Chairs		
Gibbs, Heather	September 20, 2006	February 21, 2018
Muldoon, Paul	April 4, 2006	April 3, 2016
%VanderBent, Dirk	September 18, 2006	September 17, 2016
^^^Wright, Robert V.	August 27, 2007	August 26, 2017
Part-Time Vice-Chair		
##Schiller, Susan	November 6, 2013	November 5, 2015
Full-Time Member		
++Jackson, Helen	May 24, 2011	May 23, 2016
Part-Time Members		
++Carter-Whitney, Maureen	May 4, 2011	May 3, 2016
*Lang, John B.	January 23, 2013	January 22, 2014
###Levy, Alan D.	May 9, 2007	May 8, 2017
McLeod-Kilmurray, Heather	May 4, 2011	May 3, 2016
Milbourn, Paul	December 5, 2012	December 4, 2014
Pardy, Bruce	June 22, 2005	June 21, 2016
Valiante, Marcia	May 9, 2007	May 8, 2014

Ontario Municipal Board	**Original Appointment date**	**Appointment End date**
Executive Chair		
Tanaka, Lynda C.E	May 16, 2011	May 15, 2014
Alternate Executive Chair		
DeMarco, Jerry V.	September 1,2010	August 31, 2015

Associate Chair		
Lee, Wilson S.	July 1, 1988	May 1, 2015
Full-Time Vice-Chairs		
Hussey, Karlene	April 20, 2005	January 3, 2016
*Jackson, Norman C.	October 6, 1997	January 31, 2014
McKenzie, James	July 3, 2007	July 2, 2017
##Schiller, Susan	September 6, 2005	January 3, 2016
Seaborn, Jan de Pencier	May 31, 2000	March 22, 2016
^^Stefanko, Steven	April 20, 2005	January 3, 2016
Zuidema, Jyoti	August 20, 2007	August 19, 2017
Full-Time Members		
Atcheson, J. Peter	July 5, 2004	July 4, 2015
++Carter-Whitney, Maureen	August 15, 2012	August 14, 2014
Chee-Hing, Jason	September 1, 2004	August 31, 2014
*Christou, Aristotle	April 16, 2008	April 15, 2013
Conti, Chris	July 3, 2007	July 2, 2017
++++Denhez, Marc	May 31, 2004	May 30, 2016
Hefferon, Colin	September 20, 2006	September 19, 2016
++Jackson, Helen	May 24, 2011	May 23, 2016
^^Makuch, Richard G.M.	June 13, 2012	June 12, 2014
Rossi, Reid	May 31, 2004	May 30, 2014
Sills, Mary-Anne	July 3, 2007	July 2, 2017
Sniezek, Joseph E.	June 23, 2004	June 22, 2014
Sutherland, Sylvia	March 21, 2007	March 20, 2017
Taylor, Blair S.	October 17, 2012	October 16, 2014
*Wong, Joe. G.	April 16, 2008	April 15, 2013
Part-time Member		
###Levy, Alan	November 6, 2013	November 5, 2015

Please note that a number of individuals are repeated as they are cross-appointed to more than one tribunal.

*Indicates appointees who were no longer with ELTO or in a different position within ELTO as at March 31, 2014.

++OMB and ERT Cross-appointment
+++ARB and BON Cross-appointment
++++OMB and CRB Cross-appointment
%ARB AND ERT Cross-appointment
^^ARB and OMB Cross-appointment
^^^CRB and ERT Cross-appointment
###OMB, ERT and CRB Cross-appointment
##OMB, ERT and ARB Cross-appointment